

Assembly Bill No. 1873

Passed the Assembly August 20, 2010

Chief Clerk of the Assembly

Passed the Senate August 18, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 6509.6, 16480.45, and 20194.5 to the Government Code, and to amend Section 11797 of the Insurance Code, relating to Property Assessed Clean Energy Bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, Huffman. Property Assessed Clean Energy (PACE) bonds.

Existing law requires the Treasurer to invest or make deposits in banks and savings and loan associations of revenues in the Pooled Money Investment Account in accordance with designations specified by the Pooled Money Investment Board.

The Board of Administration of the Public Employees' Retirement System is authorized to make any investment authorized by law, including, among others, an investment in real property.

The State Compensation Insurance Fund is authorized to purchase general obligation bonds or other evidence of indebtedness issued by the state.

Existing law authorizes a legislative body of a public agency, as defined, to determine that it would be convenient, advantageous, and in the public interest to designate an area within which authorized officials and property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property. Existing law authorizes a public agency to issue bonds to finance that work, to be repaid by voluntary contractual assessments.

Existing law defines a Property Assessed Clean Energy (PACE) bond as a bond that is secured by a voluntary contractual assessment as previously described or by a voluntary contractual assessment or a voluntary special tax on property to finance the installation of distributed generation renewable energy sources, or energy or water efficiency improvements that are levied pursuant to a chartered city's constitutional authority under Section 5 of Article XI of the California Constitution.

This bill would authorize the Treasurer, upon direction of the Pooled Money Investment Board, the Board of Administration of

the Public Employees' Retirement System, and the State Compensation Insurance Fund to purchase PACE bonds from specified funds.

The Exercise of Powers Act authorizes any separate entity created pursuant to that act to invest any money in the treasury that is not required for the immediate necessities of the agency or entity, as the agency or entity determines is advisable.

This bill would authorize a joint powers authority to purchase, and a local agency to sell, the right, title, and interest in an assessment contract, pursuant to an agreement between the joint powers authority and the local agency.

The bill would incorporate additional changes to Section 11797 of the Insurance Code, proposed by SB 1407 of the 2009–10 Regular Session, to be operative only if both bills are chaptered and become effective on or before January 1, 2011, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Global climate change poses serious risks to California's public health and natural environment, including significant threats to air and water quality and irreparable damage to ecosystems and wildlife.

(b) This state has established clear policy goals, through measures such as the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), to address global climate change.

(c) The Legislature has also established clear policy goals to promote energy efficiency, reduce the state's reliance on fossil fuels, and increase the state's energy independence.

(d) The promotion of renewable energy sources along with increased efficiency reduces pollution and greenhouse gas emissions and has a positive effect on air quality.

(e) Investment in energy and water efficiency improvements is also of benefit to California's economy, stimulating financial investments and creating new jobs.

(f) The protection of California's natural resources helps stimulate our economy, especially industries related to tourism,

fishing, and new technologies, as well as enhancing citizens' quality of life.

(g) Residential property improvements to energy and water efficiency financed by contractual assessments authorized by Section 5898.20 of the Streets and Highways Code, or a voluntary contractual assessment or voluntary special tax that is levied pursuant to a chartered city's constitutional authority, provide a public benefit to everyone in California.

SEC. 2. Section 6509.6 is added to the Government Code, to read:

6509.6. Notwithstanding any other law, a joint powers authority created pursuant to this chapter may purchase or acquire, by sale, assignment, pledge, or other transfer from a local agency, and any local agency may sell, assign, pledge, or transfer to a joint powers authority any or all of that local agency's right, title, and interest in and to an assessment contract authorized by Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highways Code, including any related lien, right, subsidy, or other right and receivable, and the enforcement and collection thereof, pursuant to any terms and conditions agreed to between the joint powers authority and the local agency.

SEC. 3. Section 16480.45 is added to the Government Code, to read:

16480.45. In addition to any other investment authorized by this article, the Treasurer may invest in Property Assessed Clean Energy (PACE) bonds, as defined in Section 26104 of the Public Resources Code.

SEC. 4. Section 20194.5 is added to the Government Code, to read:

20194.5. In addition to the other investments authorized by this article, the board may invest in Property Assessed Clean Energy (PACE) bonds, as defined in Section 26104 of the Public Resources Code.

SEC. 5. Section 11797 of the Insurance Code is amended to read:

11797. (a) The board of directors shall cause all moneys in the State Compensation Insurance Fund which are in excess of current requirements to be invested and reinvested, from time to time, in the same manner as provided for private insurance carriers

pursuant to Article 3 (commencing with Section 1170) of Chapter 2 of Part 2 of Division 1.

(b) (1) (A) Notwithstanding any other law, the State Compensation Insurance Fund may purchase general obligation bonds or other evidence of indebtedness issued by the state, including, but not limited to, notes issued pursuant to Part 5 (commencing with Section 17300) of Division 4 of Title 2 of the Government Code or warrants issued pursuant to Part 4 (commencing with Section 17000) of Division 4 of Title 2 of the Government Code, in any amount and to enter into purchase contracts with the state for this purpose.

(B) Notwithstanding any other law, the State Compensation Insurance Fund may purchase Property Assessed Clean Energy (PACE) bonds, as defined in Section 26104 of the Public Resources Code.

(2) The bonds or other evidence of indebtedness specified in paragraph (1), upon delivery to the State Compensation Insurance Fund, shall, for all purposes, be valid and binding obligations of the issuer thereof, be validly issued and outstanding in accordance with their stated terms, and not be deemed to be owned by or on behalf of the issuer thereof.

SEC. 5.5. Section 11797 of the Insurance Code is amended to read:

11797. (a) The board of directors shall cause all moneys in the State Compensation Insurance Fund that are in excess of current requirements to be invested and reinvested, from time to time, in the same manner as provided for private insurance carriers pursuant to Article 3 (commencing with Section 1170) and Article 4 (commencing with Section 1190) of Chapter 2 of Part 2 of Division 1, but excluding Sections 1191, 1191.1, 1191.5, 1192.2, 1192.4, 1192.6, 1192.7, 1192.9, 1192.95, 1192.10, 1194.7, 1194.8, 1194.81, 1194.82, 1194.85, 1198, and 1199.

(b) (1) (A) Notwithstanding any other law, the State Compensation Insurance Fund may purchase general obligation bonds or other evidence of indebtedness issued by the state, including, but not limited to, notes issued pursuant to Part 5 (commencing with Section 17300) of Division 4 of Title 2 of the Government Code or warrants issued pursuant to Part 4 (commencing with Section 17000) of Division 4 of Title 2 of the

Government Code, in any amount and to enter into purchase contracts with the state for this purpose.

(B) Notwithstanding any other law, the State Compensation Insurance Fund may purchase Property Assessed Clean Energy (PACE) bonds, as defined in Section 26104 of the Public Resources Code.

(2) The bonds or other evidence of indebtedness specified in paragraph (1), upon delivery to the State Compensation Insurance Fund, shall, for all purposes, be valid and binding obligations of the issuer thereof, be validly issued and outstanding in accordance with their stated terms, and not be deemed to be owned by or on behalf of the issuer thereof.

SEC. 6. Section 5.5 of this bill incorporates amendments to Section 11797 of the Insurance Code proposed by both this bill and SB 1407. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 11797 of the Insurance Code, and (3) this bill is enacted after SB 1407, in which case Section 5 of this bill shall not become operative.

Approved _____, 2010

Governor